Law Office of Jack Silver

708 Gravenstein Hwy. North, # 407, Sebastopol, CA 95472-2808
Phone 707-528-8175 Email: JSilverEnvironmental@gmail.com

Via Certified Mail –
Return Receipt Requested

July 15, 2019

James M. Barrett, General Manager
Coachella Valley Water District
Steve Robbins Administration Bldg.
75515 Hovley Lane East
Palm Desert, CA 92211-5104

Board of Directors/Head of Agency
Coachella Valley Water District
51501 Tyler Street
P.O. Box 1058
Coachella, CA 92236-1058

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act (Clean Water Act)

Dear Mr. Barrett, Members of the Board, and Head of Agency:

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch ("CRW") in regard to violations of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1251 *et seq.*, that CRW alleges are occurring through the ownership and/or operation of Coachella Valley Water District's Mid-Valley Water Reclamation Plant No. 4 ("the Facility") and associated sewer collection system.

CRW hereby places the Coachella Valley Water District, as owner and operator of the Facility and associated sewer collection system ("CVWD" or the "Discharger"), on notice that following the expiration of sixty (60) days from the date of this Notice, CRW will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the U.S. District Court against the Discharger for continuing violations of an effluent standard or limitation pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), and the Regional Water Quality Control Board Colorado River Region, Water Quality Control Plan ("Basin Plan"), as the result of violations of the Discharger's National Pollution Discharge Elimination System ("NPDES") Permit.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory provisions. One such exception authorizes a discharger, who has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in an NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition such that violation of a permit limit places a discharger in violation of the CWA. CRW alleges CVWD is in violation of the CWA by violating the terms of its NPDES permit.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (*see* 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board ("SWRCB") and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the Discharger's operations in the region at issue in this Notice is the RWQCB, Colorado River Region ("RWQCB-CR").

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute (*see* CWA § 505, 33 U.S.C. § 1365). CRW is exercising such citizen enforcement to enforce compliance by the Discharger with the CWA.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. The Specified Standard, Limitation, or Order Alleged to Have Been Violated

CRW alleges the Discharger is in violation of two NPDES permits:

a. NPDES No. CA0104973. CRW identifies specific violations of the *Waste Discharge Requirements For Coachella Valley Water District Mid-Valley Water Reclamation Plant No. 4*, including raw sewage discharges and failure by the Discharger to either comply with or provide evidence that it has complied with all the terms of its NPDES Permit.

b. NPDES No. CAS617002. CRW identifies violations of the *Waste Discharge Requirement for Discharges from the Municipal Separate Storm Sewer System (MS4) Within the Whitewater River Watershed Riverside County Flood Control and Water Conservation District*, regulating the discharge of storm water runoff from storm drains within the Discharger's jurisdiction. CRW has identified specific violations of the MS4 Permit including receiving water limit violations and failure to either comply with or provide evidence that the Discharger has complied with all terms of the MS4 Permit.

2. The Activity Alleged to Constitute a Violation

CRW contends that from July 1, 2014, to July 1, 2019, the Discharger has violated the Act as described in this Notice. CRW contends these violations are continuing or have a likelihood of occurring in the future.

A. Sanitary Sewer Overflows, Inadequate Reporting, and Failure to Mitigate Impacts

i. Collection System Surface Discharges Caused by Sanitary Sewer Overflows

Sanitary Sewer Overflows ("SSOs"), in which untreated sewage is discharged above ground from the collection system prior to reaching the Facility, are alleged to have occurred both on the dates identified in California Integrated Water Quality System ("CIWQS") Interactive Public SSO Reports, and on the dates when no reports were filed by the Discharger, all in violation of the CWA.

The Discharger's aging sewer collection system has historically experienced high inflow and infiltration ("I/I") during wet weather. Structural defects which allow I/I into the sewer lines result in a buildup of pressure resulting in SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals, and storm drains which are connected to adjacent surface waters including the Coachella Valley Storm Water Channel, the Whitewater River Storm Channel, and the Salton Sea – all waters of the United States.

A review of the CIWQS Spill Public Report – Summary Page identifies the "Total Number of SSO locations" as **82**, with **4,480,099** "Total Vol. of SSOs (gal)." Of this total volume, the Discharger admits at least **3,705,275** gallons, or **82%**, reached a surface water. However, a review of the Discharger's records indicates an even greater percentage of SSOs reached a drainage to a surface water or a surface water itself. Of the 4,480,099 gallons of sewage spilled, only **765,328** gallons, or just **17%**, was reported as being recovered. The remaining volume was discharged into the environment posing both a nuisance pursuant to California Water Code § 13050(m) and an imminent and substantial endangerment to public health and the environment.

A review of the CIWQS SSO Reporting Program Database specifically identifies 4 recent SSOs reported as having reached a water of the United States, identified by Event ID numbers 809047, 835657, 839637 and 856179. Included in the 4 reported SSOs are the following incidents:

February 15, 2019 (Event ID# 856179) – an SSO estimated at 4,500 gallons occurred at Avenue 66 East of Pierce Street at the Wash (coordinates 33.56929 -116.09872) caused by an air relief valve failure. As a result, 4,500 gallons discharged into the Coachella Valley Storm Channel.

September 01, 2017 (Event ID # 839637) – an SSO estimated at 360 gallons occurred Northeast of Indian Wells Renaissance Resort between the parking structure and Whitewater Channel (coordinates 33.723056 -116.324722) caused by a fractured PVC elbow for an air relief valve. As a result, 360 gallons discharged into Whitewater River Storm Channel and from there to the Salton Sea.

June 03, 2017 (Event ID # 835657) – an SSO estimated at 2,419,000 gallons occurred at The Golf Center at Palm Desert (Coordinates 33.736378 -116.361311). As a result of a breach in the Whitewater River Storm Channel dike near the south side of the golf course, 2,419,000 gallons were released into the Whitewater River Storm Channel and from there to the Salton Sea.

All of the above-identified discharges are violations of CWA § 301(a), 33 U.S.C. § 1311(a), as discharges of a pollutant (sewage) from a point source (sewer collection system) to a water of the United States without complying with any other sections of the Act. Further, these alleged discharges are violations of the Discharger's NPDES permit, which states in Section III. Discharge Prohibitions:

> A. "The discharge of waste to land is prohibited unless authorized in WDRs or NPDES Permit."
>
> B. "Discharge of treated wastewater at a location or in manner different from that described in Findings of this Order is prohibited."
>
> D. "Except as allowed under I.G.2 and I.G.3. of Attachment D, Standard Provisions, the bypass or overflow of untreated wastewater or wastes to the Coachella Valley Storm Water Channel is prohibited."
>
> E. "The Discharger shall not accept waste in excess of the design treatment or disposal capacity of the system."
>
> F. "The discharge shall not cause degradation of any water supply."
>
> G. "The treatment or disposal of wastes from the Facility shall not cause pollution or nuisance as defined in Section 13050, subdivisions (l) and (m), respectively, of the California Water Code."

In addition to the above violations to a surface water, a review of the CIWQS SSO Reporting Program Database specifically identifies 20 recent SSOs reported as having reached land. This is a violation of the Discharger's NPDES Permit, which states in Section III: Discharge Prohibitions: A. "The discharge of waste to land is prohibited unless authorized in WDRs or NPDES Permit." The following Event ID numbers identify a discharge to land: 856326, 855959, 853199, 853196, 849404, 841278, 831447, 830753, 829885, 829110, 828950, 822954, 822020, 819061, 818663, 818643, 813829, 810591, 809085, and 809087 (a spill with a volume of 189,675 gallons).

ii. Inadequate Reporting of Discharges

a. Incomplete and Inaccurate SSO Reporting

Full and complete reporting of SSOs is essential to gauging their impact on public health and the environment. The Discharger's SSO Reports, which should reveal critical details about each of these SSOs, lack responses to specific questions that would identify the causes and the potential repairs ensuring these violations would not recur.

In addition, CRW's expert believes many of the SSOs reported by the Discharger as partially reaching a surface water did so in greater volume than stated. Further, that a careful reading of the time when the Discharger receives notification of an SSO, the time of its response, and the time at which the SSO ended, too often appear as unlikely estimations. For example:

October 31, 2017 (Event ID # 841278) – The spill start time and agency notification time are reported as being simultaneous at 19:10. The operator is reported as arriving at 18:25, more than half an hour before the agency notification, and the spill end time is listed as 19:20, just ten minutes after the spill start time. The spill volume is estimated to be 3,370 gallons, all of which was discharged into the environment.

December 15, 2016 (Event ID # 830753) – The spill start time and agency notification time are both listed as 08:50, the operator arrival time is listed as ten minutes later at 09:00, and the estimated spill end time as 09:05, just five minutes later. The spill volume is estimated to be 100 gallons, all of which reached land.

February 20, 2015 (Event ID # 856326) – The spill start time is listed as 10:45 and the agency notification just three minutes later at 10:48. The operator arrival time is reported as 11:05, and the spill end time as 11:10, just five minutes later. The total volume of the spill is reported as 25 gallons, all of which is reported as having reached land by discharging into a trench.

Given the unlikely accuracy of the times and intervals provided in these reports, it is difficult to consider the stated volumes as accurate. Without accurately reporting the spill start and end time, there is a danger of underestimating the duration and volume of a spill.

b. Failure to Warn

CRW contends the Discharger is understating the significance of the impacts of its CWA violations by failing to post health warning signs for the following discharges reaching a surface water: Event ID# 798386, 766493, 761365, 730137, 757581, 763476, 796855, 809047, 763525, and 805232.

iii. Failure to Mitigate Impacts

CRW contends the Discharger fails to adequately mitigate the impacts of SSOs. The Discharger is a permittee under the *Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements* Order No. 2006-0003-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. The Statewide WDR requires the Discharger to take all feasible steps and perform necessary remedial actions following the occurrence of an SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site.

A critical remedial measure is the performance of adequate sampling to determine the nature and the impact of the release. As the Discharger is severely underestimating SSOs which reach surface waters, CRW contends the Discharger is not conducting sampling on most SSOs.

The EPA's "*Report to Congress on the Impacts of and Control of CSOs and SSOs*" (EPA, Office of Water (2004)) identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous critical habitat areas exist within areas of the Discharger's SSOs. Neighboring waterways include sensitive areas for the Southern Willow Flycatcher, the Coachella Valley Fringe-Toad Lizard, Desert Pupfish, Yuma Clapper Rail, Peninsular Bighorn Sheep, Arroyo Toad, Desert Tortoise, and the Least Bell's Vireo. There is no record of the Discharger performing any analysis of the impact of SSOs on critical habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies designated as critical habitat from the impacts of SSOs.

B. Collection System Subsurface Discharges Caused By Underground Exfiltration

It is a well-established fact that exfiltration caused by pipeline cracks and other structural defects in a sewer collection system result in discharges to adjacent surface waters via underground hydrological connections. CRW contends untreated sewage is discharged from cracks, displaced joins, eroded segments, etc. in the Discharger's sewer collection system into groundwater hydrologically connected to surface waters including, but not limited to, Coachella Valley Storm Channel and Whitewater River Storm Channel – waters of the United States. Surface waters become contaminated with pollutants including human pathogens. Chronic failures in the collection system pose a substantial threat to public health.

Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.

Evidence of exfiltration can also be supported by reviewing mass balance data, I/I data, video inspection, as well as tests of waterways adjacent to sewer lines for nutrients, human pathogens, and other human markers such as caffeine. Any exfiltration found is a violation of the Discharger's NPDES Permit and thus the CWA.

C. Violation of Receiving Water Limitations and Impacts to Beneficial Uses

The Whitewater River and its surrounding watershed, Coachella Valley Storm Water Channel/Whitewater River Storm Channel, and the Salton Sea have numerous beneficial uses as set forth in the RWQCB's Basin Plan. Unauthorized discharges from CVWD cause prohibited pollution by unreasonably affecting the beneficial uses of these neighboring waterways.

The Whitewater River is a small permanent stream in western Riverside County originating on the southern slopes of the San Bernardino Mountains and flowing southeast through the Coachella Valley to the Salton Sea. The drainage area is approximately 1,500 square miles at the Salton Sea. Most of its course is now channelized. Upstream from the vicinity of Washington Street (Point Happy) the channelized section is referred to as the Whitewater River Storm Channel. Downstream to the Salton Sea, this channelized extension is named the Coachella Valley Storm Water Channel.

Coachella Valley Stormwater Channel is an unlined, engineered extension of the Whitewater River Channel, serving as a conveyance channel for agricultural irrigation return water, treated wastewater from three municipal wastewater treatment plants, and urban and storm water runoff. Within the Channel's boundaries are 16 stormwater protection channels. The entire system includes approximately 135 miles of channels built along the natural alignment of creeks that flow from the surrounding mountains into the Whitewater River. This 50-mile storm channel runs from the Whitewater area north of Palm Springs to the Salton Sea. The western half of the channel runs along the natural alignment of the Whitewater River that cuts diagonally across the valley near Highway 111 and Washington Street. From this area the riverbed flattens out and a man-made storm channel funnels waters to the Salton Sea. Flows that drain to the Channel may contain pollutants at concentrations that violate certain Basin Plan water quality objectives, in particular, pesticides, silt/sediment, and selenium. Flows to the Channel also contain nutrients (e.g., phosphorus) at concentrations that contribute to the nutrient impairment of the Salton Sea.

The Whitewater River Watershed is an arid desert region encompassing an area of approximately 1,645 square miles. The Whitewater River Region accounts for approximately 367 square miles (22%) of the Whitewater River Watershed. The southeastern portion of the Whitewater River Region, which includes sections of Indio, La Quinta, Coachella and an unincorporated County area, sits atop a shallow subterranean clay lens which is typical for the most downstream reach of an ephemeral waterbody. These portions of the Whitewater River Region feature shallow depth to groundwater.

The Salton Sea is a one of the world's largest inland seas and lowest spots on earth at -227 below sea level. The deepest point of the Sea is only 5 feet higher than the lowest point of Death Valley. The Sea is fed by the New, Whitewater and Alamo Rivers as well as agricultural runoff, drainage systems and creeks. The Salton Sea is listed as impaired under CWA §303(d) for nutrients, salt, and metals (selenium). Tributaries to the Salton Sea, including the Coachella Valley Storm Channel, may be affected by the nutrient TMDL and any others developed for the Salton Sea.

CRW is understandably concerned as to the effects of both surface and underground SSOs on critical habitat in and around the diverse and sensitive ecosystem of the Facility and the Discharger's SSOs.

Discharges in excess of receiving water and groundwater limitations reaching these waters cause prohibited pollution by unreasonably affecting their beneficial uses. In order to protect these beneficial uses, the Discharger's NPDES Permit No. CA0104973, Section V. Receiving Water Limitations, A. Surface Water Limitations, states that "... the discharge shall not cause or contribute to the following in the Coachella Valley Storm Water Channel" and includes a list of 14 prohibitions. CRW finds insufficient information in the public record demonstrating the Discharger has monitored for and complied with these Receiving Water Limitations. CRW is understandably concerned regarding the effects of CVWD's discharges to beneficial uses applicable to the Coachella Valley Storm Water Channel/Whitewater River Storm Channel and the Salton Sea.

D. Violations of the MS4 Permit

CRW alleges violations of Discharge Prohibition B of NPDES Permit No. CAS617002 as a result of CVWD's discharge of wastewater to the Whitewater River/Coachella Valley Stormwater Channel. These alleged violations include the following reported incidents: Event ID #856179, 839637, 835657, 809047, 853196, 829885, 822954, and 813829.

Discharges of waste from the MS4 that are prohibited by Statewide Water Quality Control Plans or applicable Regional Water Quality Control Board Basin Plans are prohibited. CVWD cannot cause or contribute to an exceedance of water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule ("CTR"), or in the applicable Basin Plan. Discharges of storm water from the MS4 to waters of the United States in a manner causing or threatening to cause a condition of pollution or nuisance as defined in California Water Code § 13050 are prohibited. Discharges through the MS4 of material other than storm water to waters of the United States must be effectively prohibited, except as allowed under CVWD's MS4 Permit or as otherwise authorized by a separate NPDES permit. Potable water line flushing and other potable water discharges are allowed only if they do not violate water quality objectives or cause a condition of pollution or nuisance.

CRW contends CVWD is discharging hexavalent chromium above CTR limits of 11 µg/l contentious, 16 µg/l maximum, to surface waters (*see* 40 CFR 131.38). Further, that CVWD allows these discharges to surface waters to clear the lines, test equipment, and to identify potential problems in the storm drain system such as blockages, breaks, etc. Once the water enters a storm drain it flows through pipes until it enters a creek or waterway. (*See SF Baykeeper v. West Bay SD*, 791 F. Supp 2d 719, 756 (N.D. CA 2011); when storm-drains lead to surface waters it can be assumed that discharges to that storm-drain reached surface waters).

CRW contends CVWD discharges millions of gallons of potable water with levels of hexavalent chromium above the CTR limit into the surface waters identified in this Notice. The CTR limits are Water Quality Objectives ("WQOs") that need to be attained at the point of discharge. (*See Santa Monica Baykeeper v. Kramer Metals, Inc.*, 619 F. Supp. 2d 914, 926-927 (CD CA 2009) and the companion case *Santa Monica Baykeeper v. International Metals Ekco, Ltd.*, 619 F. Supp. 2d 936, 947-948 (CD CA 2009)).

CVWD's 2019 Domestic Water Quality Summary has shown that Cove Communities Range of total chromium is as high as 33 µg/l, and hexavalent chromium is as high as 23 µg/l. Studies have shown that a measurement of soluble total chromium is actually the measurement of the hexavalent chromium content. ID No. 8 range was 24/20 µg/l total/hexavalent chromium. The total/hexavalent chromium range in ID No. 11 was not disclosed. The past five years of CVWD's Domestic Water Quality Summaries have reported similar levels of total and hexavalent chromium. In all cases, reported levels exceed 11 µg/l and 16 µg/l. Examples of wells with high levels of hexavalent chromium include Well 3480-1 with recent levels between 20-22 µg/l, Well 3409-2 with recent levels between 16-24 µg/l, Well 3410-1 with recent levels between 14-16 µg/l, Well 6726-1with recent levels between 14-15 µg/l, and Well 6728-1 with recent levels between 9-15 µg/l.

Discharging hexavalent chromium above the CTR limit into surface waters by definition adversely affects the beneficial uses of those waters. The SWRCB and the Regional Water Quality Control Boards have determined that exceedances of WQOs adversely affect beneficial uses. A review of CVWD's data demonstrates that levels of hexavalent chromium remain above the CTR limit thousands of feet from the well-head, and that any hydrant discharge within that zone will exceed the CTR limit. As the Regional Water Quality Control Boards do not provide for mixing zones, the highest in-stream concentration is at the discharge point.

3. The Person or Persons Responsible for the Alleged Violation

The entity responsible for the alleged violations identified in this Notice is the Coachella Valley Water District and those of its employees responsible for compliance with the CWA and with any applicable state and federal regulations and permits.

4. The Location of the Alleged Violation

The location or locations of the various violations alleged in this Notice are identified in records created and/or maintained by or for the Discharger which relate to its ownership and operation of the Facility and associated sewer collection system, as further described in this Notice.

CVWD was formed in 1918 under the County Water District law. It is governed by a five-member board of directors, elected at large to four-year terms. CVWD is a multi-function agency, providing the following services: domestic water, sanitation collections and treatment, agricultural irrigation and drainage, storm water protection, and groundwater management.

A. Sanitary Sewer System

The Discharger owns and operates the wastewater collection system which provides conveyance of raw wastewater to the Facility. The collection system for the Facility is a separate sanitary sewer system. In the event the Discharger's private contractor is unable to provide service for secondary sludge removal and disposal from the Discharger's other facilities (Bombay Beach Water Reclamation Plant No. 1, North Shore Water Reclamation Plant No. 2, Improvement District 58 Water Reclamation Plant No. 7, or Palm Desert Reclamation Plant No. 10), the Discharger may in the interim, transport secondary sludge to the Facility as a contingency plan for temporary storage.

The collection system has approximately 107,000 services and serves approximately 265,000 customers, collecting municipal waste from residential and commercial users and delivering the collected wastewater to one of five Wastewater Reclamation Plants. The system includes approximately 1,100 miles of sewer, 34 lift stations and approximately 17,000 manholes. Total wastewater flow in 2014 was 15.4 million gallons per day and it is expected to increase in the future.

B. CVWD's Regional Stormwater System

The RWQCB-CR has issued an NPDES Municipal Separate Storm Sewer System Permit ("MS4 Permit") under Order No. R7-2013-0011, NPDES No. CAS617002. In cooperation with the County of Riverside and incorporated cities within the Whitewater River Watershed, CVWD is

responsible for "*implementing that portion of the urban runoff management program for any discharges to and from* (its) *MS4 facilities.*" As such, any discharge into the Whitewater River/Coachella Valley Stormwater Channel or other stormwater facilities within CVWD's jurisdiction must comply with the MS4 permit.

On November 21, 2012, the County of Riverside and the Riverside County Flood Control and Water Conservation District, in cooperation with CVWD and incorporated cities including Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage, jointly submitted NPDES Application No. CAS617002 and a Report of Waste Discharge for re-issuance of the third term MS4 Permit.

Tributary stormwater facilities convey flood flows that originate in the Santa Rosa Mountains on the southwest or in the Little San Bernardino Mountains on the northeast to the Whitewater River/Coachella Valley Stormwater Channel. These projects include the West Magnesia Channel, Palm Valley Channel, Thousand Palms Channel, Detention Channels 2 and 3, La Quinta Evacuation Channel and Deep Canyon Channel. CVWD also operates stormwater facilities or systems that discharge directly to the Salton Sea, such as Detention Channel No. 1.

C. The Facility

The Facility, a publicly owned treatment works, discharges wastewater to the Coachella Valley Storm Water Channel. The permitted maximum daily flow limitation is equal to the design capacity of the Facility which is 9.9 million gallons per day ("MGD"). The discharge consists of disinfected secondary and equivalent to secondary treated wastewater.

The Facility consists of 2 treatment systems running in parallel – a lagoon treatment system (7.0 MGD) and a Biolac® activated sludge treatment system (2.9 MGD). The headworks system includes 2 pre-aeration ponds, automatic bar screens, conveyor, a washer-compactor, and a headworks building equipped with an air scrubber. Flow from the headworks is distributed to 5 treatment modules. Four of the treatment modules are part of the lagoon treatment system and 1 treatment module is part of the Biolac® activated sludge treatment system. Each of the 4 lagoon treatment modules are comprised of 4 lined aerated lagoons and 2 lined polishing ponds (for a total of 16 aeration lagoons and 8 polishing ponds). All ponds are lined with a synthetic membrane liner. The activated sludge treatment system consists of 2 activated sludge basins, 2 secondary clarifiers, and sludge handling facilities (including a gravity belt thickener and belt filter press). Combined effluent from each lagoon system module and the Biolac® system is disinfected and dechlorinated prior to discharge into the Coachella Valley Storm Water Channel, using a chemical induction unit which employs a vacuum and gas system capable of dispersing the chlorine and sulfur dioxide gas with an airfoil-design propeller.

Screening solids removed from the headworks are routed to a washer/compactor unit where the soft organics are separated from the screenings and returned to the process flow stream. The screenings are then compacted and transferred to a dumpster and subsequently hauled off-site for disposal at a County of Riverside landfill. A granular disinfectant is manually applied to the screenings in the dumpster.

Waste activated sludge is pumped from 2 secondary clarifiers to a single 1.5-meter gravity belt thickener. The sludge is conditioned with a cationic emulsion polymer before entering the thickener. The thickened waste activated sludge flows to a 48,000-gallon sludge holding tank and is then pumped to a single 2-meter belt filter press where it is dewatered. The dewatered sludge is discharged into a truck trailer before being hauled off-site by a private hauler for composting.

The polishing ponds in the aeration lagoon system are dredged to remove accumulated solids at a rate of approximately 1 pond per year. Dredged solids are deposited in 8 unlined drying beds. The solids are periodically transferred to a storage area for continued drying before transport off-site by a private hauler for composting.

5. Reasonable Range of Dates During Which the Alleged Activity Occurred

The range of dates covered by this Notice is July 1, 2014 through July 1, 2019. This Notice also includes all violations of the CWA by the Discharger which occur during and after this Notice period up to and including the time of trial.

6. The Full Name, Address, and Telephone Number of the Person Giving Notice

The entity giving notice is California River Watch, referred to throughout this notice as "CRW," an Internal Revenue Code § 501(c)(3) nonprofit, public benefit corporation duly organized under the laws of the State of California. Its headquarters and main office are located in Sebastopol. Its mailing address is 290 South Main Street, # 817, Sebastopol, CA 95472. CRW is dedicated to protecting, enhancing, and helping to restore surface waters and groundwaters of California including coastal waters, rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs.

CRW may be contacted via email: US@ncriverwatch.org, or through its attorneys. CRW has retained legal counsel with respect to the issues raised in this Notice. All communications should be directed to counsel identified below:

Jack Silver, Esq.
Law Office of Jack Silver
708 Gravenstein Hwy. No. # 407
Sebastopol, CA 95472-2808
Tel. 707-528-8175
Email: Jsilverenvironmental@gmail.com

David J. Weinsoff, Esq.
Law Office of David J. Weinsoff
138 Ridgeway Avenue
Fairfax, CA 94930-1210
Tel. 415-460-9760
Email: david@weinsofflaw.com

RECOMMENDED REMEDIAL MEASURES

CRW looks forward to meeting with the Discharger's staff to tailor remedial measures to the specific operation of the Facility and associated sewage collection system. In advance of that conversation, CRW identifies the following set of remedial measures that will advance compliance with the CWA and the Basin Plan, and help economize the time and effort the parties need to resolve their concerns:

A. DEFINITIONS

Condition Assessment: A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television ("CCTV") inspections for sewer lines; manhole inspections for structural defects; and inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade such as the Pipeline Assessment and Certification Program ("PACP") rating system, developed by the National Association of Sewer Service Companies.

Full Condition Assessment: A Condition Assessment of all sewer lines in the sewer collection system.

Significantly Defective: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

5 – Most significant defect
4 – Significant defect
3 – Moderate defect
2 – Minor to moderate defect
1 – Minor defect.

B. RECOMMENDED MEASURES

1. Sewer Collection System Investigation and Repair

   i. Completion of a Full Condition Assessment.

   ii. Scheduling Significantly Defective sewer lines for repair and/or replacement.

2. Modification of CVWD's SSO Response Plan to include characterization of all SSOs on a risk basis regardless of size or location of the spill (i.e. surface water or land).

3. Confirmation of compliance by CVWD with Receiving Water Limitations and the reporting of results in CVWD's SMRs which are posted on SMARTS.

4. Elimination of the use and application of herbicides or other chemicals to control or eliminate roots.

5. Reduction of the levels of hexavalent chromium in potable water to below the CTR.

CONCLUSION

The violations set forth in this Notice affect the health and enjoyment of members of CRW who reside and recreate in the affected community and may use the affected watershed for recreation, fishing, horseback riding, hiking, photography or nature walks. Their health, use and enjoyment of this natural resource is specifically impaired by the Discharger's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including a governmental instrumentality or agency, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), 33 U.S.C. § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to $54,883.00 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 – 19.4. CRW believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. CRW encourages the Discharger to contact counsel for CRW within **20 days** after receipt of this Notice to initiate a discussion regarding the allegations detailed herein. In the absence of productive discussions to resolve this dispute, CRW will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,

Jack Silver

JS:lhm

Service List

Andrew W. Wheeler, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Mike Stoker, Regional Administrator
U.S. Environmental Protection Agency Region 9
75 Hawthorne St.
San Francisco, CA 94105

Eileen Sobeck, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100